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**PHV Applications Forthcoming*

9
10 **IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

11 WILLIAM MOSHER,

12 Plaintiff,

13 v.

14 CITY OF MESA; J. ALEXANDER;
15 (FIRST NAME UNKNOWN)
16 SULLIVAN; and, E. WICK,
17

18 Defendants.

No.

COMPLAINT

19 **Introduction**

20 1. In July 2021, Mesa Police Department officers shot William Mosher twice
21 with beanbag shotgun rounds. Mosher fell. Then, as he lay on the ground, an officer tased
22 him. Mosher was unarmed and following police instructions. There was no reason to shoot
23 him.

24 **Parties**

25 2. Plaintiff William Mosher is an individual living in Arizona.
26 3. Defendant City of Mesa is a municipal corporation.
27 4. Defendant Sullivan is a Mesa police officer. Mosher sues Sullivan in his
28 individual capacity.

1 5. Defendant J. Alexander is a Mesa police officer. His badge number is 20539.
2 Moshier sues Alexander in his individual capacity.

3 6. Defendant E. Wick is a Mesa police officer. His badge number is 15856.
4 Moshier sues Wick in his individual capacity.

5 **Jurisdiction & Venue**

6 7. This court has subject-matter jurisdiction over Moshier's federal claims under
7 28 U.S.C. § 1331.

8 8. This court has subject-matter jurisdiction over Moshier's state-law claims
9 under 28 U.S.C. § 1367.

10 9. Venue is appropriate in this judicial district because the events giving rise to
11 all claims occurred in and around the City of Mesa.

12 **Allegations**

13 10. On July 7, 2021, William Moshier was driving a car in Mesa, Arizona.

14 11. An acquaintance of Moshier was riding in the front passenger seat of
15 Moshier's car.

16 12. The police wanted to arrest the acquaintance.

17 13. While Moshier was stopped at a traffic light at the corner of Country Club
18 and Main Streets in Mesa, the police executed a tactic known as a vehicle containment.

19 14. The police told Moshier they were not there to arrest him.

20 15. The police told Moshier they were only after his acquaintance.

21 16. Moshier showed police officers both of his hands.

22 17. Moshier's hands were empty.

23 18. The police officers ordered Moshier to get out of his car.

24 19. Moshier complied.

25 20. The police officers could see that Moshier had no weapons in his hands.

26 21. An officer ordered Moshier to show that he had no weapons.

27 22. After Moshier got out of his car and stood next to it, Moshier lifted his shirt to
28 show officers he had no weapons in his waistband.

 23. While Moshier's shirt was lifted, showing he had no weapons, for no reason,

1 Sullivan fired a beanbag shotgun round at Mosher.

2 24. The round struck Mosher in his stomach.

3 25. The hit caused Mosher to step back and turn.

4 26. Alexander then fired a beanbag shotgun round at Mosher.

5 27. The round struck Mosher in his buttocks.

6 28. The hit caused Mosher to fall.

7 29. As Mosher was lying on the ground, Wick shot Mosher with a taser.

8 30. The taser hit Mosher on his side.

9 31. All the shots caused Mosher physical, mental, and emotional pain and
10 suffering including some that continues to this day and is reasonably likely to continue into
11 the future.

12 **Claims for Relief**

13 **Count I**

14 **Excessive Force, 42 U.S.C. § 1983**

15 **Mosher v. Alexander, Sullivan, and Wick**

16 32. Mosher incorporates all other allegations here by reference.

17 33. Alexander, Sullivan, and Wick used unreasonable force when they fired
18 weapons at Mosher.

19 34. No reasonable officer facing the circumstances Alexander, Sullivan, and
20 Wick faced would have found the force they used reasonable. This is because, among other
21 things, Mosher had committed no crime, Mosher was not the suspect the police were
22 interested in, Mosher was visibly unarmed, Mosher was complying with instructions, and
23 as to the latter shots, Mosher had already been incapacitated by the first shot.

24 35. Alexander, Sullivan, and Wick were acting under color of law.

25 36. Alexander, Sullivan, and Wick's unreasonable force harmed Mosher.

26 **Count II**

27 **Monell Liability, 42 U.S.C. § 1983**

28 **Mosher v. City of Mesa**

37. Mosher incorporates all other allegations here by reference.

1 38. Alexander, Sullivan, and Wick used unreasonable force when they fired
2 weapons at Mosher.

3 39. At that time, members of the Mesa police department, especially those
4 working with the United States Marshals Service's special task force—as these officers
5 were—had a custom of using excessive force, including

- 6 a. During arrests
7 b. During arrests using vehicle containments (as was done here)
8 c. Using less-than-lethal weapons like the beanbag shotgun and taser here.

9 40. Mesa police officials knew of this pattern, encouraged it, and allowed it to
10 continue. Mesa officials were also aware of repeated, similar constitutional violations that
11 were not properly investigated and for which the responsible officers were not disciplined
12 or properly trained.

13 41. This custom caused Alexander, Sullivan, and Wick to use excessive force
14 against Mosher.

15 **Count IV**

16 ***Assault***

17 **Mosher v. All Defendants**

18 42. Mosher incorporates all other allegations here by reference.

19 43. Alexander, Sullivan, and Wick assaulted Mosher when they shot him.

20 44. The assaults harmed Mosher.

21 45. The City of Mesa is vicariously liable for these assaults by its officers.

22 **Count V**

23 ***Battery***

24 **Mosher v. All Defendants**

25 46. Mosher incorporates all other allegations here by reference.

26 47. Alexander, Sullivan, and Wick battered Mosher when they shot him.

27 48. The batteries harmed Mosher.

28 49. The City of Mesa is vicariously liable for these batteries by its officers.

Count VI
Negligence / Gross Negligence

Mosher v. City of Mesa

50. Mosher incorporates all other allegations here by reference.

51. The City of Mesa owes a duty of care to members of the public to those who come into contact with its officers, like Mosher.

52. The City of Mesa breached this duty by failing to adequately train or supervise officers involved in vehicle containments, the violent offender unit, or the East Valley Violent Offender Task Force, including Alexander, Sullivan, and Wick.

53. Before Alexander, Sullivan, and Wick used excessive force on Mosher, the City of Mesa was aware that officers using vehicle containments, on the violent offender unit, and working with the East Valley Violent Offender Task Force repeatedly used excessive force similar to how it was used here.

54. These breaches caused Alexander, Sullivan, and Wick to use force against Mosher for no good reason.

Prayer for Relief

Plaintiff William Mosher respectfully requests judgment in his favor and against the defendants awarding this relief:

- a. Compensatory damages
- b. Punitive damages
- c. Pre- and post-judgment interest
- d. Attorneys' fees and costs
- e. All other relief the Court deems just

Dated: May 13, 2022

Respectfully submitted,

/s/ Thomas R. Kayes
Attorney for Plaintiff

Jury Demand

William Mosher demands a jury trial.

Dated: May 13, 2022

Respectfully submitted,

/s/ Thomas R. Kayes

Attorney for Plaintiff